

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

STEVE ALAN MAHONEY,
Plaintiff,
vs.
STEVE HAMMOND, et al.,
Defendants.

NO. CV-10-109-CI

**ORDER ADOPTING REPORT AND
RECOMMENDATION AND DISMISSING
FIRST AMENDED COMPLAINT**

1915(g)

BEFORE THE COURT is Plaintiff's Objection (Ct. Rec. 15) to the Report and Recommendation to Dismiss his First Amended Complaint. Plaintiff, a prisoner at the Airway Heights Corrections Center, is proceeding *pro se* and *in forma pauperis*; Defendants have not been served. After review of Plaintiff's Objection, including exhibits and "stories," and for the reasons set forth by the Magistrate Judge, **IT IS ORDERED** the Report and Recommendation (Ct. Rec. 14) is **ADOPTED in its entirety**.¹

¹In his Objection, Mr. Mahoney asserts for the first time that he was given a faulty walker. If Plaintiff believes his Eighth Amendment rights were violated in this regard, he is free to file a separate action. The disposition of this action is based on Plaintiff's assertion he was not prescribed narcotic pain medication when he refused

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1 Therefore, **IT IS ORDERED** the First Amended Complaint is **DISMISSED**
2 **with prejudice** for failure to state a claim upon which relief may be
3 granted. 28 U.S.C. §§ 1915(e)(2) and 1915A(b)(1).

4 Pursuant to 28 U.S.C. § 1915(g), enacted April 26, 1996, a prisoner
5 who brings three or more civil actions or appeals which are dismissed as
6 frivolous or for failure to state a claim will be precluded from
7 bringing any other civil action or appeal *in forma pauperis* "unless the
8 prisoner is under imminent danger of serious physical injury." 28
9 U.S.C. § 1915(g). Plaintiff is advised to read the new statutory
10 provisions under 28 U.S.C. § 1915. This dismissal of Plaintiff's
11 complaint may count as one of the three dismissals allowed by 28 U.S.C.
12 § 1915(g) and may adversely affect his ability to file future claims.

13 **IT IS SO ORDERED.** The District Court Executive is directed to
14 enter this Order, enter judgment, forward copies to Plaintiff at his
15 last known address, and close the file. The District Court Executive is
16 further directed to forward a copy of this Order to the Office of the
17 Attorney General of Washington, Criminal Justice Division. The Court
18 certifies any appeal of this dismissal would not be taken in good faith.

19 **DATED** this 8th day of July 2010.

20
21 S/ Edward F. Shea
22 EDWARD F. SHEA
23 UNITED STATES DISTRICT JUDGE

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25
26 _____
27 knee replacement surgery.

28 ORDER DISMISSING FIRST AMENDED COMPLAINT -- 2